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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,177	07/30/2003	Brian P. Gebby	706657US1	7656

24938 7590 03/22/2005

DAIMLERCHRYSLER INTELLECTUAL CAPITAL CORPORATION  
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EXAMINER
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NGUYEN, HOANG M

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/630,177

Applicant(s)

GEBBY ET AL.

Examiner

Hoang M Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/30/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 6306056 (Moore) in view of U.S. 5823581 (Yamaguchi et al). Moore discloses a method to control an operation of a hybrid engine comprising a controller 70 for sensing acceleration request through an accelerator position and vehicle speed (column 3, lines 59-60) to generate a driving torque command which is equivalent with the target torque output, said controller then controlling the torque outputs of two torque sources from two engines 12, 18 or electric motor 28 (note column 4). Moore does not disclose the concept of using table to retrieve data. Yamaguchi is relied upon to disclose a hybrid vehicle controller comprising a controller 41 for reading an accelerator opening to get an acceleration request then generate torque command using data table from a computer (column 7). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the control system in Moore to have a data table as taught by Yamaguchi et al for the purpose of more effectively generating torque output command.

Claims 1-4 are further rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 6474068 (Abdel Jalil et al) in view of U.S. 5823581 (Yamaguchi et al). Abdel Jalil et al discloses a method to control an operation of a hybrid engine comprising a

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controller 20 for sensing acceleration request through an accelerator position and vehicle speed (figure 2) to generate a driving torque command which is equivalent with the target torque output, said controller then controlling the torque outputs of two torque sources from two engines 12, 14. Abdel Jalil et al does not disclose the concept of using table to retrieve data. Yamaguchi is relied upon to disclose a hybrid vehicle controller comprising a controller 41 for reading an accelerator opening to get an acceleration request then generate torque command using data table from a computer (column 7). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the control system in Abdel Jalil et al to have a data table as taught by Yamaguchi et al for the purpose of more effectively generating torque output command.

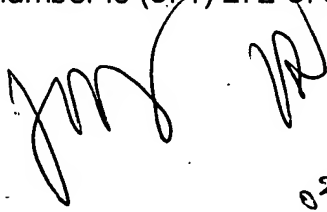
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Matsumoto et al, Hisada, and Takashima et al disclose a hybrid vehicle controller using accelerator sensors.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner Nguyen whose telephone number is (571) 272-4861. The examiner can normally be reached on Tuesday--Friday from 12:30 AM to 10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion, can be reached on (571)-272-4859. The fax phone number for the Examiner is (703) 872-9302 for regular communication, and (703) 872-9303 for after final communication.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-3700.



HOANG NGUYEN  
PRIMARY EXAMINER  
ART UNIT 3748

03/14/05

Hoang Minh Nguyen  
3/19/05